

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

JESSE CAMPBELL,

Plaintiff,

vs.

FIRSTSOURCE ADVANTAGE, LLC,

Defendant.

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Case No. 4:12-cv-01079-SNLJ

**DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES**

COMES NOW Defendant Firstsource Advantage, LLC ("Defendant"), and, for its answer to the Complaint filed by Plaintiff, admits, denies, and avers as follows:

1. Defendant admits the allegations in paragraph 1.
2. Defendant admits the allegations in paragraph 2.
3. Paragraph 3 contains legal conclusions that are not subject to admission or denial; to the extent a response is required, Defendant denies the same.

**JURY TRIAL DEMAND**

Defendant demands a jury trial on all issues triable by jury.

**AFFIRMATIVE DEFENSES**

1. The Complaint fails to state a claim upon which relief may be granted.
2. Plaintiff's claims may be barred, in whole or in part, to the effect Plaintiff failed to mitigate his damages, the existence of which damages Defendant specifically denies.
3. Plaintiff's claims are barred or diminished under the doctrine of consent.
4. Plaintiff's claims are barred to the extent he was not charged for any alleged calls placed to his cellular number.

5. To the extent it is determined that Defendant violated the TCPA, which Defendant specifically denies, any award of damages would be improper because any such violation would be *de minimis* or inconsequential.

6. Defendant reserves the right to add further affirmative defenses as discovery and litigation of this case progresses.

WHEREFORE, having fully responded to the allegations contained in the Complaint, Defendant prays that this Court dismiss the claims brought by Plaintiff with prejudice to future actions, at Plaintiff's costs, and for such other and further relief as the Court deems just and proper.

DATED this 25<sup>th</sup> day of June, 2012.

Respectfully submitted,

SPENCER FANE BRITT & BROWNE LLP

By: /s/ Joshua C. Dickinson

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*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document was filed electronically with the United States District Court for the Eastern District of Missouri, with notice of case activity generated and sent electronically this 25<sup>th</sup> day of June, 2012, to:

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s/ Joshua C. Dickinson \_\_\_\_\_